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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,045	02/02/2000	Bassel H. Daoud	DAOUD-276-48-12-72-9	7013

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EXAMINER

HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

8

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/497,045

Applicant(s)

DAOUD ET AL.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 16-18, 23-26, 31, 32, 34, 36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 16-18, 23-26, 31-32, 34, 36-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- 1) Acknowledgement is made of Amendment received 6/3/2002, Paper No. 5. Applicants cancel claims 1-13, 15, 19-22, 27-30, 33, 35, 38-47, and amend claims 14, 16-18, 24, 31, and 34. The response is to Office Action of 12/26/2001, Paper No. 4. Claims 14, 16-18, 23-26, 31-32, 34, 36-37, are under consideration.

Drawings

- 2) This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3) Claims 14, 16-18, 23-26, 31-32, 34, 36-37, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (677,161) in view of Prost (4,846,746). Wilson discloses a mold having two complementary elongated side pieces (F and G), and an end cap (R) with a cylindrical stub for insertion within the opening of a tube at one end, for the purpose of tapering and shaping selected sections of a glass cylindrical tube,

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and a support means for holding the tube (Wilson, pages 1-2, and Figures 1-4).

Additionally, the claim recites a heating source within a one piece of the mold. Wilson does not disclose a heating source within a piece of the mold. Prost discloses a multi piece mold where glass is heated from a heated source within the mold until the glass is rendered malleable to be pressed into a desired shape (Prost, col. 2, lines 10-37, and Figures 1-4). It would have been obvious to combine the teachings of Prost and Wilson, because such a combination would provide an improved means of heating the glass tube in the Wilson design. The Prost multi piece heating system includes heat generator 18, which creates a flame 20, from burner 19, along heating axis 21, heat distribution channels, ventilation channels, and temperature sensors. The heating from burner torches 19 and 23 is shown in Figure 4 (Prost, col. 3, line 49 to col. 6, line 15, and Figures 3-4).

Note: Claim 24 preamble recites "for shaping a glass tube", however "a glass tube" or "a tube" is not claimed.

Response to Amendment

- 4) Amended Specification providing numbers of co-pending applications is accepted.
- 5) Claims 1-11, 29, rejection under 35 U.S.C. 112, second paragraph, is withdrawn in view of cancelled claims.

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6) Claims 1-7, 13-19, 23-25, 27-37, rejection under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Prost, is withdrawn in view of amended and cancelled claims.

7) Claims 8-12, 20-22, 26, rejection under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Prost, and further in view of Sherrerd, is withdrawn in view of amended and cancelled claims.

8) Applicant's arguments filed 6/24/2002, have been fully considered but they are not persuasive.

In regard to the amended independent claim 24, the applicants allege that the cited prior art, Wilson, does not teach the use of an end plug piece "dimensioned for allowing rotational movement of the tube about the cylindrical stub". Likewise, in regard to the amended independent claim 31, the applicants allege that the cited prior art, Wilson, does not teach a support means for holding the tube and "for imparting rotational motion to the tube" about and end plug "which is dimensioned for allowing rotational movement of the tube about the end plug".

The arguments are not well taken. The present claims are apparatus claims. Apparatus claims must be structurally distinguishable from the prior art. Manner of operating the device does not differentiate apparatus claims from the prior art. MPEP 2114. Also, in apparatus claims, when the structure recited in the reference is substantially identical to that of the claims, claimed properties or functions are presumed to be inherent. MPEP 2112.01.

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In the present claim 24, Wilson does disclose a mold having an end plug as in item 3 above. The manner of operation of the plug dimensioned for rotational movement of the tube, is not of consideration.

In the present claim 31, Wilson does disclose a support means as in item 3 above. The manner of operation of the support means for imparting rotational motion to the tube, is not of consideration.

Conclusion

9) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

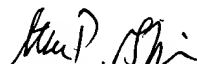
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

MH

Mark Halpern
Patent Examiner
Art Unit 1731

July 25, 2002


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
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